

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:17-cv-01906-CKK**

SIERRA CLUB v. UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY

Assigned to: Judge Colleen Kollar-Kotelly

Cause: 05:552 Freedom of Information Act

Date Filed: 09/18/2017

Jury Demand: None

Nature of Suit: 895 Freedom of
Information Act

Jurisdiction: U.S. Government Defendant

Plaintiff

SIERRA CLUB

represented by **Justine Thompson Cowan**
COWAN CONSULTING FOR
NONPROFITS, PLLC
P.O. Box 533507
Orlando, FL 32853
(407) 506-4109
PRO HAC VICE
ATTORNEY TO BE NOTICED

Matthew Edwin Miller
SIERRA CLUB
50 F Street, NW
8th Floor
Washington, DC 20001
(202) 650-6069
Email: matthew.miller@sierraclub.org
ATTORNEY TO BE NOTICED

V.

Defendant

**UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY**

represented by **Derek S. Hammond**
U.S. ATTORNEY'S OFFICE FOR THE
DISTRICT OF COLUMBIA
555 Fourth Street, NW
Washington, DC 20530
(202) 252-2511
Fax: (202) 252-2599
Email: derek.hammond@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Benton Gregory Peterson
U.S. ATTORNEY'S OFFICE FOR THE
DISTRICT OF COLUMBIA
555 Fourth Street, NW
Washington, DC 20530
(202) 252-2534
Fax: (202) 252-2599
Email: benton.peterson@usdoj.gov
TERMINATED: 02/25/2019

Date Filed	#	Docket Text
09/18/2017	<u>1</u>	COMPLAINT against UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (Filing fee \$ 400 receipt number 0090-5120220) filed by SIERRA CLUB. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit, # <u>4</u> Exhibit, # <u>5</u> Civil Cover Sheet, # <u>6</u> Summons, # <u>7</u> Summons, # <u>8</u> Summons)(Miller, Matthew) (Entered: 09/18/2017)

09/18/2017	<u>2</u>	Corporate Disclosure Statement by SIERRA CLUB. (Miller, Matthew) (Entered: 09/18/2017)
09/18/2017		Case Assigned to Judge Colleen Kollar-Kotelly. (md) (Entered: 09/19/2017)
09/19/2017	<u>3</u>	SUMMONS (3) Issued Electronically as to UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, U.S. Attorney and U.S. Attorney General (Attachments: # <u>1</u> Notice of Consent) (md) (Entered: 09/19/2017)
09/20/2017	<u>4</u>	MOTION for Leave to Appear Pro Hac Vice :Attorney Name– Justine Thompson Cowan, :Firm– Cowan Consulting for Nonprofits, PLLC, :Address– P.O. Box 533507, Orlando, FL 32853. Phone No. – 407–506–4109. Filing fee \$ 100, receipt number 0090–5124413. Fee Status: Fee Paid. by SIERRA CLUB (Attachments: # <u>1</u> Declaration, # <u>2</u> Text of Proposed Order)(Miller, Matthew) (Entered: 09/20/2017)
09/22/2017	<u>5</u>	ORDER Establishing Procedures for Cases Assigned to Judge Colleen Kollar-Kotelly. Signed by Judge Colleen Kollar-Kotelly on 09/22/2017. (DM) (Entered: 09/22/2017)
10/02/2017	<u>6</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY served on 9/25/2017 (Miller, Matthew) (Entered: 10/02/2017)
10/02/2017	<u>7</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 09/22/2017. (Miller, Matthew) (Entered: 10/02/2017)
10/02/2017	<u>8</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 9/22/2017. Answer due for ALL FEDERAL DEFENDANTS by 10/22/2017. (Miller, Matthew) (Entered: 10/02/2017)
10/23/2017	<u>9</u>	ANSWER to Complaint by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY.(Peterson, Benton) (Entered: 10/23/2017)
10/24/2017		MINUTE ORDER: The Court has received the <u>4</u> Motion for Admission Pro Hac Vice of Attorney Justine Thompson Cowan. That Motion is GRANTED CONTINGENT on Ms. Cowan filing a declaration by October 31, 2017 certifying that she has reviewed and is familiar with the Local Rules of this Court. Signed by Judge Colleen Kollar-Kotelly on 10/24/2017. (lcckk1) (Entered: 10/24/2017)
10/24/2017	<u>10</u>	ORDER. The parties shall file the schedule not later than NOVEMBER 30, 2017. Signed by Judge Colleen Kollar-Kotelly on 10/24/2017. (lcckk1) (Entered: 10/24/2017)
10/24/2017		Set/Reset Deadlines: Parties shall file schedule by 11/30/2017. (dot) (Entered: 10/31/2017)
10/27/2017	<u>11</u>	AFFIDAVIT of Justine Thompson Cowan by SIERRA CLUB. (Attachments: # <u>1</u> Declaration Decl. of review of Local Rules)(Miller, Matthew) (Entered: 10/27/2017)
11/30/2017	<u>12</u>	Joint STATUS REPORT of Sierra Club and EPA by SIERRA CLUB. (Miller, Matthew) (Entered: 11/30/2017)
12/05/2017		MINUTE ORDER: The Court has received the parties' <u>12</u> Joint Status Report. For good cause shown, the parties shall have until DECEMBER 22, 2017 , to file a further Joint Status Report proposing a schedule for proceeding in this matter that addresses the topics set forth in the Court's <u>10</u> Order. Signed by Judge Colleen Kollar-Kotelly on December 5, 2017. (lcckk1) (Entered: 12/05/2017)
12/05/2017		Set/Reset Deadlines: Joint Status Report due by 12/22/2017. (dot) (Entered: 12/06/2017)
12/22/2017	<u>13</u>	Joint STATUS REPORT by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY. (Peterson, Benton) (Entered: 12/22/2017)
01/03/2018		MINUTE ORDER: The Court has received the parties' <u>13</u> Second Joint Status Report, which indicates that they "have reached agreement based on representations made thus far on most aspects of the searches for all four [Freedom of Information Act] requests." Accordingly, with the parties' consent, Defendant shall complete its production of non-exempt, responsive records by MAY 30, 2018 . Defendant shall

		produce these documents on a rolling basis and shall provide status reports to Plaintiff every 30 days, or more frequently as needed. The parties shall file a further Joint Status Report by JUNE 15, 2018 , identifying whether any further issues remain in this case and proposing a briefing schedule, if necessary. Signed by Judge Colleen Kollar-Kotelly on January 3, 2018. (lcckk1) (Entered: 01/03/2018)
01/03/2018		Set/Reset Deadlines: Joint Status Report due by 6/15/2018. (dot) (Entered: 01/03/2018)
05/25/2018	<u>14</u>	Unopposed MOTION for Extension of Time to <i>Complete Production and File Joint Report</i> by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (Peterson, Benton) (Entered: 05/25/2018)
05/30/2018		MINUTE ORDER: The Court has received Defendant's <u>14</u> Unopposed Motion to Adjust Schedule, which indicates that Defendant has made interim productions to Plaintiff, that the parties have discussed ways to clarify the request and/or streamline processing, and that Plaintiff has agreed to narrow one category of responsive records. However, due to a strain on agency resources and to Plaintiff's pending process of narrowing as discussed, Defendant will not be able to complete its production by May 30, 2018. With Plaintiff's consent, the Court GRANTS Defendant's <u>14</u> Unopposed Motion for good cause shown and adopts Defendant's proposed adjustments to the schedule. Accordingly, Defendant shall complete its production of non-exempt, responsive records by JULY 16, 2018 . Defendant shall produce these documents on a rolling basis and shall provide status reports to Plaintiff every 30 days, or more frequently as needed. The parties shall file a further Joint Status Report by JULY 30, 2018 , identifying whether any further issues remain in this case and proposing a briefing schedule, if necessary. Signed by Judge Colleen Kollar-Kotelly on May 30, 2018. (lcckk1) (Entered: 05/30/2018)
05/30/2018		Set/Reset Deadlines: Joint Status Report due by 7/30/2018. (dot) (Entered: 05/31/2018)
07/13/2018	<u>15</u>	Unopposed MOTION for Extension of Time to <i>Complete Production</i> by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (Peterson, Benton) Modified relief on 7/13/2018 (ztd). (Entered: 07/13/2018)
07/16/2018		MINUTE ORDER: The Court has received Defendant's <u>15</u> Unopposed Motion to Adjust Schedule, which indicates that Defendant requires additional time to complete its processing of potentially responsive records associated with the recently resigned Administrator of Defendant EPA. <i>See</i> Min. Order of May 30, 2018 (setting deadline of July 16, 2018). With Plaintiff's consent, the Court GRANTS Defendant's motion, for good cause shown. Defendant shall complete its production of non-exempt, responsive records by AUGUST 6, 2018 . While Defendant has not requested an adjustment to the deadline for the parties' Joint Status Report, the Court finds that an adjustment is appropriate in light of the above-granted extension. Accordingly, the deadline for the parties' Joint Status Report shall be continued from July 30, 2018, until AUGUST 20, 2018 . This Joint Status Report shall identify whether any further issues remain in this case and propose a briefing schedule, if necessary. Signed by Judge Colleen Kollar-Kotelly on July 16, 2018. (lcckk1) (Entered: 07/16/2018)
07/16/2018		Set/Reset Deadlines: Joint Status Report due by 8/20/2018. (dot) (Entered: 07/17/2018)
08/20/2018	<u>16</u>	Joint STATUS REPORT by SIERRA CLUB. (Miller, Matthew) (Entered: 08/20/2018)
08/28/2018		MINUTE ORDER: The Court has received the parties' <u>16</u> Joint Status Report, which indicates that Defendant views its production as largely completed and that the parties are discussing certain redactions and withholdings from that production. In order to permit the parties additional time to distill any remaining issues, the Court shall adopt the parties' proposal that they file a further Joint Status Report by SEPTEMBER 26, 2018 , identifying whether any further issues remain and proposing a briefing schedule, if necessary. Signed by Judge Colleen Kollar-Kotelly on August 28, 2018. (lcckk1) (Entered: 08/28/2018)
08/28/2018		Set/Reset Deadlines: Joint Status Report due by 9/26/2018. (dot) (Entered: 08/31/2018)

09/26/2018	<u>17</u>	Joint STATUS REPORT by SIERRA CLUB. (Miller, Matthew) (Entered: 09/26/2018)
10/11/2018		MINUTE ORDER: The Court has received the parties' <u>17</u> Fourth Joint Status Report, which indicates that "the parties have been diligently working through all outstanding issues and have made some progress, but have not yet completed that process." In order to permit the parties additional time to distill any remaining issues, the Court shall adopt the parties' proposal that they file a further Joint Status Report by OCTOBER 30, 2018 , identifying whether any further issues remain and proposing a briefing schedule, if necessary. Signed by Judge Colleen Kollar-Kotelly on October 11, 2018. (lcckk1) (Entered: 10/11/2018)
10/11/2018		Set/Reset Deadlines: Joint Status Report due by 10/30/2018, identifying whether any further issues remain and proposing a briefing schedule, if necessary. (dot) (Entered: 10/12/2018)
10/30/2018	<u>18</u>	Joint STATUS REPORT by SIERRA CLUB. (Miller, Matthew) (Entered: 10/30/2018)
11/06/2018		MINUTE ORDER: The Court has received the parties' <u>18</u> Fifth Joint Status Report, which indicates that "the parties are continuing to make progress, and only a discrete number of outstanding issues remain." In order to permit the parties additional time to distill any remaining issues, the Court shall adopt the parties' proposal that they file a further Joint Status Report by NOVEMBER 30, 2018 , identifying whether any further issues remain and proposing a briefing schedule, if necessary. Signed by Judge Colleen Kollar-Kotelly on November 6, 2018. (lcckk1) (Entered: 11/06/2018)
11/06/2018		Set/Reset Deadlines: Joint Status Report due by 11/30/2018, identifying whether any further issues remain and proposing a briefing schedule, if necessary. (dot) (Entered: 11/09/2018)
11/30/2018	<u>19</u>	Joint STATUS REPORT by SIERRA CLUB. (Miller, Matthew) (Entered: 11/30/2018)
12/07/2018		MINUTE ORDER: The Court has received the parties' <u>19</u> Sixth Joint Status Report, which indicates that "the parties have resolved most outstanding issues and anticipate reaching an agreement on the remaining issues" shortly, before turning to the issue of attorney's fees. In order to permit the parties additional time to work through these issues, the Court shall adopt the parties' proposal that they file a further Joint Status Report by JANUARY 30, 2019 , identifying whether any further issues remain and proposing a briefing schedule, if necessary. Signed by Judge Colleen Kollar-Kotelly on December 7, 2018. (lcckk1) (Entered: 12/07/2018)
12/07/2018		Set/Reset Deadlines: Joint Status Report due by 1/30/2019, identifying whether any further issues remain and proposing a briefing schedule, if necessary. (dot) (Entered: 12/10/2018)
01/23/2019	<u>20</u>	Consent MOTION to Stay , MOTION for Extension of Time to <i>in Light of Lapse of Appropriations</i> by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (Attachments: # <u>1</u> Text of Proposed Order)(Hudak, Brian) (Entered: 01/23/2019)
01/25/2019		MINUTE ORDER: The Court has received Defendant's <u>20</u> Consent Motion for a Stay and Extension of Time in Light of Lapse of Appropriations. The parties had been negotiating a resolution of this case, and such negotiation evidently cannot continue at this time due to the lapse in appropriations to the U.S. Department of Justice ("DOJ") and Defendant U.S. Environmental Protection Agency ("EPA"). <i>See also</i> Min. Order of Dec. 7, 2018. Accordingly, with Plaintiff's consent, and in an exercise of the Court's discretion, the Court shall GRANT Defendant's <u>20</u> Consent Motion. The Court shall STAY this case, including the deadline for the Joint Status Report due by January 30, 2019. The Joint Status Report shall be due within 30 days of the restoration of funding to DOJ and EPA and the resumption of those agencies' operations. The parties shall file a notice within five business days of the restoration of those agencies' funding and the resumption of their operations. Signed by Judge Colleen Kollar-Kotelly on January 25, 2019. (lcckk1) (Entered: 01/25/2019)
01/29/2019	<u>21</u>	NOTICE by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY re Order on Motion to Stay,,,,, Order on Motion for Extension of Time to,,, (Peterson, Benton) (Entered: 01/29/2019)

01/30/2019		MINUTE ORDER: The Court has received Defendant's <u>21</u> Notice of Restored Government Funding. Accordingly, the Court hereby LIFTS the stay in this matter. The parties' next Joint Status Report shall be submitted by FEBRUARY 25, 2019 . Signed by Judge Colleen Kollar-Kotelly on January 30, 2019. (lcckk1) (Entered: 01/30/2019)
02/25/2019	<u>22</u>	NOTICE OF SUBSTITUTION OF COUNSEL by Derek S. Hammond on behalf of All Defendants Substituting for attorney Benton G. Peterson (Hammond, Derek) (Entered: 02/25/2019)
02/25/2019	<u>23</u>	Joint STATUS REPORT by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY. (Hammond, Derek) (Entered: 02/25/2019)
02/27/2019		MINUTE ORDER: The Court has received the parties' <u>23</u> Sixth Joint Status Report, which is actually their seventh such report. This report conveys the parties' current view that "they have resolved all outstanding issues with the exception of attorney's fees," as to which they "remain optimistic that they can work cooperatively." In order to permit the parties additional time to resolve the attorney's fees issue, the Court shall adopt the parties' proposal that they file a further Joint Status Report by MARCH 25, 2019 , identifying whether they have resolved this issue and proposing a briefing schedule, if necessary. Signed by Judge Colleen Kollar-Kotelly on February 27, 2019. (lcckk1) (Entered: 02/27/2019)
02/27/2019		Set/Reset Deadlines: Joint Status Report due by 3/25/2019, identifying whether they have resolved this issue and proposing a briefing schedule, if necessary. (dot) (Entered: 02/28/2019)
03/25/2019	<u>24</u>	Joint STATUS REPORT by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY. (Hammond, Derek) (Entered: 03/25/2019)
04/01/2019		MINUTE ORDER: The Court has received the parties' <u>24</u> Eighth Joint Status Report. This report again conveys the parties' view that "they have resolved all outstanding issues with the exception of attorneys fees," as to which they require further time to "work cooperatively" to address that issue. In order to permit the parties additional time to resolve the attorney's fees issue, the Court shall adopt the parties' proposal that they file a further Joint Status Report by MAY 10, 2019 , identifying whether they have resolved this issue and proposing a briefing schedule, if necessary. Signed by Judge Colleen Kollar-Kotelly on April 1, 2019. (lcckk1) (Entered: 04/01/2019)
04/01/2019		Set/Reset Deadlines: Joint Status Report due by 5/10/2019, identifying whether they have resolved this issue and proposing a briefing schedule, if necessary. (dot) (Entered: 04/02/2019)
05/10/2019	<u>25</u>	Joint STATUS REPORT by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY. (Hammond, Derek) (Entered: 05/10/2019)
05/14/2019		MINUTE ORDER: The Court has received the parties' <u>25</u> Ninth Joint Status Report, which conveys their view that "they have resolved all outstanding issues." In order to permit the parties additional time to obtain the United States Attorney's approval and to finalize the formal settlement agreement, the Court shall adopt the parties' proposal that they file a Stipulation of Settlement and Dismissal with Prejudice by no later than JUNE 10, 2019 . Alternatively, they may file a Joint Status Report by that date identifying any further steps that remain to finalize their settlement and proposing a schedule for such further proceedings. Signed by Judge Colleen Kollar-Kotelly on May 14, 2019. (lcckk1) (Entered: 05/14/2019)